

SUMMARY MINUTES DURHAM BOARD OF ADJUSTMENT

November 28, 2000

The meeting was called to order at 8:30 a.m.

ROLL CALL

The Clerk called the roll and recorded attendance as follows:

MEMBERS SEATED

Lavonia Allison
William Brian, Chairman
Furney Brown
James Edney
Louis Goetz
Selina Mack
David Smith

MEMBERS NOT SEATED

Kristen Rosselli

MEMBERS ABSENT

Corinne Mabry
Kathy Wright-Moore

STAFF PRESENT

Dennis Doty, Planner
Betty Johnson, Planning Staff
Brenda Johnson, Clerk, Board of Adjustment
Steve Medlin, Planning Supervisor
Karen Sindelar, Deputy City Attorney
Lowell Siler, Deputy County Attorney
Sheila Stains-Ramp, Planning Supervisor

SWEARING IN OF WITNESSES

The Chairman administered the oath to the following applicants and witnesses:

Betty Johnson
Daniel Wrsin
Taylor Blakely
Bryan Blake
Dan Jewell

Dennis Doty
Montell Irvin
Church Hill
Jack Markham
Jarvis Martin

Conflicts of Interest/Early Dismissals

The Chairman asked if there were any conflicts of interest with any of the Board members and any of the cases before the Board today. He also asked if any Board members had to leave early.

There were not any conflicts noted. There were no requests for early dismissal.

HEARING AND DETERMINATION OF CASES

Ms. Johnson asked that all staff reports and materials submitted at the meeting be made part of the permanent record with any additions, deletions, and or corrections that may be necessary. All Board members concurred.

Chairman Brian read the following statement into the record:

This Board is a quasi-judicial Board of record and as such, all testimony will be recorded. I'd like to ask at this point are there any members of this Board that would have any conflicts of interest with regard to the cases that are before us today? Are there any early dismissals at this time?

The proceedings of this Board will be governed by the zoning laws, as recorded.

As Chair of the Board of Adjustment, I'd like to explain the procedures used for Board hearings. The hearings are quasi-judicial. The process is similar to a court proceeding. First the staff will present an overview of the case then the applicant presents its evidence. The opponents, if there are any, will then present their evidence. The applicant may then present its rebuttal. Board members are asked to refrain from questions until each speaker has completed his or her presentation. All testimony is given under oath. In a few moments I will give the oath to all witnesses as a group. All witnesses are asked to sign the roster at the podium if you have not done so.

Testimony should consist of facts each witness knows directly, not hearsay. All witnesses should come to the podium and speak directly into the microphone so their testimony can be recorded on tape.

Written evidence must be presented to the Chair and a determination will be made about whether it should be accepted. Written evidence can be inspected by the other side. All evidence, written or oral, can be objected to.

Witnesses are subject to cross-examination. Opposing representatives will have a chance to question witnesses after all witnesses for the other side have testified. If you wish to cross-examine you must raise your hand when I ask for other speakers in favor or against the application and I will recognize you. I would like to note that Board members may have visited each site under consideration as a part of their preparation for this meeting.

The Board will vote on each case after the presentation of all evidence, pro and con, concerning the case. The law requires that in order for an applicant's request to be granted 5 of the 7 voting Board members must approve the request.

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November 28, 2000**

SEATED: Ms. Allison, Mr. Brian, Mr. Brown, Mr. Edney, Mr. Goetz, Ms. Mack, Mr. Smith

Case B99-54: A request by Erwin Oil Company for a Minor Special Use Permit for a convenience store with gasoline sales as per Sections 4D.1.3.2; 7.13, 8.1.15, 8.1.23, 9.4.1, 10.2.4, 12 and 13.1 of the Durham Zoning Ordinance. The property is located at 5100 Guess Road and zoned NC (E-B Overlay). Tax Map 823-1-2.

Staff Presentation was made by: Betty Johnson

Persons Appearing in Support: Jack Markham, Attorney, Daniel Erwin with Erwin Oil, Jarvis Martin, Real Estate Appraiser; Montell Irvin, Traffic Engineer; Taylor Blackely, Land Planner

Persons Appearing in Opposition: None

Staff Recommendation was: Approval

Motion: Ms. Allison made a motion to grant the request as submitted based on the governing Ordinance findings of fact.

Conditions: Subject to all site plan corrections.

Seconded By: Mr. Goetz

Vote: 7 to 0

Action: Granted

**Summary Minutes
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SEATED: Ms. Allison, Mr. Brian, Mr. Brown, Mr. Edney, Mr. Goetz, Ms. Mack, Mr. Smith

Case B00-48: A request by County of Durham for a Minor Special Use Permit for a public utility facility upgrade as per Sections 4A.1.3.16; 7.30; 8.1.15; 9.4.1; 10.2.4; 12 and 13.1 of the Durham Zoning Ordinance. The property is located along the west side of NC #55 and zoned NC and RD (F/J-B). Tax Map 532-1-9.

Staff Presentation was made by: Dennis Doty

Persons Appearing in Support: Dan Jewell, Landscape Architect; Chuck Hill and Brian Black, Engineers

Persons Appearing in Opposition: None

Staff Recommendation was: Approval

Motion: Mr. Smith made a motion to grant the request as submitted based on the governing ordinance findings of fact.

Conditions: 1. Subject to site plan corrections.
2. This approval is for 2 phases only.

Seconded By: Mr. Brown

Vote: 7 to 0

Action: Granted

**Summary Minutes
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Old Business

Mr. Medlin passed out a draft of the denial order for Case B00-41. He asked the Board to review it and it would be discussed and hopefully approved at the December 12th meeting.

Approval of Summary Minutes

The summary minutes of September 26, 2000 and October 24, 2000 were approved as submitted on a motion by Allison and a second by Goetz.

December 12 meeting

The Chairman asked for a show of hands of those persons who would not be able to attend the December 12 meeting. Ms. Rosselli indicated she would not be in town. Ms. Wright-Moore indicated she would be present but running a few minutes late. The Chairman asked that all the members make a special effort to be present on that day.

Ms. Allison and Mr. Brian indicated they would be late on that date. The Chairman asked that Ms. Mabry be called to see what time she plans to arrive.

Lunch for December 12, 2000 meeting

Ms. Betty Johnson indicated that the staff is ordering lunch for that date.

The clerk reminded everyone that the December 12 meeting is located in the City Council Chambers on the 1st floor.

There being no further business to come before the Board, the meeting was adjourned at approximately 10:00 a.m.

Respectfully submitted,

**Brenda Johnson, Clerk
Durham Board of Adjustment**